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[Proposed] Counsel for Debtor

Electronically Filed February 7, 2023

[Proposed] Counsel for Debtor

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re

Case No. BK-S-23-10423-MKN

CASH CLOUD, INC.,
dba COIN CLOUD,

Chapter 11

Adversary No.

Debtor.

CASH CLOUD, INC., dba COIN CLOUD,

Plaintiff.

V.

COLE KEPRO INTERNATIONAL, LLC

Defendant.

**COMPLAINT FOR DECLARATORY
JUDGMENT DETERMINING THE
VALIDITY AND EXTENT OF COLE
KEPRO INTERNATIONAL LLC'S
SECURITY INTEREST**

Cash Cloud, Inc. (“Cash Cloud,” “Plaintiff,” or “Debtor”), debtor and debtor in possession in the above-captioned chapter 11 case (the “Chapter 11 Case”), by and through its proposed undersigned counsel, Fox Rothschild LLP, hereby files this Complaint and complains as follows.

JURISDICTION AND VENUE

- 27 1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
28 2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (K), and (O).

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The procedural grounds for the relief requested herein is Fed.R.Bankr. P. 7001.

3 5. Pursuant to Fed.R.Bankr. P. 7008 and Local Rule 7008, Cash Cloud consents to the
4 entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy
5 judge, absent consent of the parties, cannot enter final orders or judgment consistent with Article III
6 of the United States Constitution.

7 6. Cash Cloud reserves its rights to amend this Complaint as additional facts may be
8 discovered.

PARTIES

10 7. Plaintiff is the debtor and debtor in possession in the above-captioned Chapter 11
11 Case. Cash Cloud is a Nevada corporation, duly formed under the laws of the State of Nevada. At
12 all times since its formation in 2014, Cash Cloud's principal place of business has been in Clark
13 County, Nevada. Cash Cloud operates under the trade name Coin Cloud. This trade name is
14 registered with Clark County, Nevada. The trademark Coin Cloud is owned by Cash Cloud.

15 8. Upon information and belief, Defendant Cole Kepro International, LLC
16 (“Defendant” or “Cole Kepro”) is a limited liability company organized under the laws of the State
17 of Delaware. At all times relevant herein, Cole Kepro’s principal place of business is and has been
18 in Clark County, Nevada.

19 9. Defendants DOES 1 THROUGH 10 are additional defendants but the Plaintiff is
20 unaware of their true names and legal capacities whether individual, corporate, associate, or
21 otherwise, and therefore sues such Defendant with such fictitious names. The Plaintiff prays for
22 leave to insert said Defendants' true names and legal capacities when ascertained. The Plaintiff is
23 informed and believes, and thereon alleges, that each of the Defendants designated herein as a DOE
24 is in some way an additional transferee of the transfers at issue in Complaint.

BRIEF NATURE OF ACTION

26 10. In February 2021, Cash Cloud agreed to purchase 4,080 digital currency kiosks (the
27 "Kiosks") from Defendant for an amount in excess of \$34,000,000. The purchase orders did not
28 grant Defendant a security interest in the Kiosks.

1 11. Cash Cloud received and paid for the Kiosks in stages. It became evident that the
2 Kiosks were defective and did not function properly.

3 12. In May 2022, Defendant recorded a UCC Financing Statement, and thereafter filed
4 amendments (the “UCCs”), asserting a security interest in, among other things, the Kiosks.

5 13. Given that Cash Cloud never granted, and Defendant never obtained, a security
6 interest in the Kiosks, Defendant's recordation of the UCCs was invalid, and could not perfect a
7 non-existent security interest in the Kiosks.

GENERAL ALLEGATIONS

9 | Debtor's Bankruptcy Filing

10 14. On February 7, 2023 (the “Petition Date”),¹ Cash Cloud filed with this Court a
11 voluntary petition for relief under chapter 11 of the Bankruptcy Code.

12 15. Cash Cloud is authorized to operate its business and manage its property as debtor in
13 possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

16. No request has been made for the appointment of a trustee or examiner, and no
statutory committee has been appointed.

16 | Cash Cloud's Business

17 17. Since its inception in 2014, Cash Cloud grew to become a recognized leader in the
18 retail digital currency trading industry.

18. Cash Cloud's business is centered on providing the general public the means to buy
19 and sell digital currency (e.g., Bitcoin and other cryptocurrencies) using ATM-style digital currency
20 machines ("DCMs").
21

22 19. Cash Cloud's customers purchase digital currency by depositing cash (U.S. dollars)
23 in Cash Cloud's DCM, and receiving digital currency in the customer's digital currency wallet. In
24 turn, Cash Cloud's customers sell digital currency by sending digital currency to Cash Cloud, and
25 receiving the corresponding amount of cash from the DCM.

26 | //

¹ All capitalized terms not otherwise defined herein shall have those meanings ascribed to them in the Omnibus Declaration filed in the estate case.

1 **Cash Cloud's Business Relationship With Defendant**

2 20. Cash Cloud has had a long standing business relationship with Defendant, which
3 includes the purchase of thousands of DCMs over the years.

4 21. In February 2021, Cash Cloud negotiated the purchase of 4,080 DCMs (C-2960-01-
5 000-GEN04 Coin Cloud Bitcoin Kiosk With BNR), the Kiosks, from Defendant for over
6 \$34,000,000.00.

7 22. As part of the agreement for the sale of the Kiosks to Cash Cloud, Defendant
8 promised to deliver fully functional and defect-free DCMs to Cash Cloud.

9 23. Production, delivery, and payment terms of the purchase of the Kiosks were
10 provided in a one-page sales quote from February 2021 (the “Sales Quote”).

11 24. Among other things, the Sales Quote provided that Defendant would produce and
12 deliver approximately 255 Kiosks per week to Cash Cloud. Cash Cloud would make payment to
13 Defendant for the delivered Kiosks within 45 days after receipt.

14 25. Cash Cloud sent a purchase order for the Kiosks to Defendant in February 2021.

15 26. In April 2021, Defendant agreed to lower the price of the Kiosks.

16 27. On April 30, 2021, Cash Cloud representatives executed purchase order 04302021-2
17 for the Kiosks in the amount of \$34,533,120 (“April 30 PO 04302021-2”), a true and correct copy
18 of which is annexed hereto as **Exhibit 1**. On April 30, 2021, Cash Cloud representatives also
19 executed a purchase order 04302021 for an adjustment price in the amount of \$363,130.00 (“April
20 30 PO 04302021”), a true and correct copy of which is annexed hereto as **Exhibit 2**. The April 30
21 PO 04302021-2 and April 30 PO 04302021 are collectively referred to herein as the “April 30 2021
22 Purchase Order”.

23 28. Aside from the production, delivery, and payment terms agreed to by Cash Cloud and
24 Defendant by virtue of the sales quotes and purchase orders, no other written terms or conditions
25 were agreed to by Cash Cloud as part of the purchase of the Kiosks.

26 29. Cash Cloud did not grant a security interest to Defendant in the Kiosks in the April
27 30 2021 Purchase Order or enter into a security agreement with Defendant with regard to the
28 Kiosks.

1 30. After Cash Cloud executed the April 30 2021 Purchase Order, Defendant
 2 commenced its periodic delivery of the Kiosks to Cash Cloud. Defendant delivered approximately
 3 3,000 of the 4,080 Kiosks by February 26, 2022. Cash Cloud and Defendant have agreed that
 4 Defendant need not deliver the remaining 1,079 kiosks to Cash Cloud, and Cash Cloud has no
 5 obligation to pay for them.

6 31. The Kiosks delivered to Cash Cloud suffer from a screen defect which interferes
 7 with the normal operation of the Kiosks, including the use of the Kiosks to purchase and/or sell
 8 digital currency (the “Defect”).

9 32. Upon information and belief, Defendant learned of the Defect in June 2021, but
 10 failed to disclose the Defect to Cash Cloud until months later. Moreover, instead of halting
 11 production and/or delivery, Defendant continued to produce and deliver the defective Kiosks to
 12 Cash Cloud. As a result of the Defect, Cash Cloud has suffered substantial harm and damages,
 13 including, but not limited to, repair costs, lost profits, and loss of goodwill.

14 **Cash Cloud’s Additional Purchase Orders**

15 33. Cash Cloud agreed to purchase product from Defendant on November 3, 2021 in the
 16 amount of \$5,504.09 as set forth in purchase order 1132021-1.

17 34. Cash Cloud agreed to purchase product from Defendant on December 15, 2021 in
 18 the amount of \$860.00 as set forth in purchase order 12152021-1.

19 35. Cash Cloud agreed to purchase product from Defendant on January 5, 2022 in the
 20 amount of \$119,600.00 as set forth in purchase order 152022-1.

21 36. Cash Cloud agreed to purchase product from Defendant on January 10, 2022 in the
 22 amount of \$14,400.00 as set forth in purchase order 152022-1.

23 37. Cash Cloud agreed to purchase product from Defendant on January 12, 2021 in the
 24 amount of \$9,375.00 as set forth in purchase order 1122022-1.²

25 38. Cash Cloud agreed to purchase product from Defendant on January 15, 2022 in the
 26 amount of \$3,975.00 as set forth in purchase order 1152022-1.

28 2 Although this purchase order is dated January 12, 2021, its purchase order number reflects that the accurate date is
 January 12, 2022.

1 39. Cash Cloud agreed to purchase product from Defendant on January 25, 2022 in the
 2 amount of \$5,000.00 as set forth in purchase order 1252022-1.

3 40. Cash Cloud agreed to purchase product from Defendant on January 27, 2022 in the
 4 amount of \$1,910.00 as set forth in purchase order 1272022-1.

5 41. Cash Cloud agreed to purchase product from Defendant on January 31, 2022 in the
 6 amount of \$9,900.00 as set forth in purchase order 1312022-2.

7 42. Cash Cloud agreed to purchase product from Defendant on February 1, 2022 in the
 8 amount of \$4,050.00 as set forth in purchase order 212022-1.

9 43. Cash Cloud agreed to purchase product from Defendant on February 14, 2022 in the
 10 amount of \$6,000.00 as set forth in purchase order 2142022-1.

11 44. The foregoing purchase orders referenced in paragraphs 33 to 43 above total
 12 \$180,574.09 and are collectively referenced herein as the “Eleven Purchase Orders.”

13 45. The Eleven Purchase Orders had written terms or conditions agreed to by Cash
 14 Cloud, which terms included the grant of a security interest by Cash Cloud.

15 46. The property subject to the Eleven Purchase Orders, if delivered, was delivered by
 16 Defendant to Cash Cloud no later than February 26, 2022.

Defendant's UCC Financing Statements

18 47. On May 25, 2022, the Defendant recorded a UCC Financing Statement in the Office
 19 of the Secretary of State for the State of Nevada, Filing Number 2022243917-2 (“First Cole Kepro
 20 UCC”). This UCC asserts an interest in the following collateral:

21 ANY AND ALL 1095-C-2960-01-000-FEN04 COIN CLOUD BITCOIN DOMESTIC
 22 KIOSKS WITH BNR AND ASSOCIATED SPARE PARTS SOLD BY
 23 SECURED PARTY TO DEBTOR, INCLUDING THOSE SOLD PURSUANT TO
 24 PURCHASE ORDER NUMBERS: #04302021-2, #1102022-1, #152022-1, #1132021-1,
 #11220221, #12152021-2, #1312022-2, #212022-1, #2142022-1, #1152022-1, #1252022-1
 AND #1272022-1.

25 See **Exhibit 3** annexed hereto.

26 48. On June 3, 2022, Defendant recorded another UCC Financing Statement in the
 27 Office of the Secretary of State for the State of Nevada, Filing Number 2022245297-6, purporting
 28 to change the name of the Debtor and adding “Coin Cloud LLC,” as a debtor but lists no collateral

1 ("Second Cole Kepro UCC"). See **Exhibit 4** annexed hereto.

2 49. Further, on June 3, 2022, several hours after recording the Second Cole Kepro UCC,
 3 Defendant recorded another UCC Financing Statement in the Office of the Secretary of State for the
 4 State of Nevada, Filing Number 2022245388-7 ("Third Cole Kepro UCC"), asserting to list the
 5 same collateral as set forth in the First Cole Kepro UCC recorded on May 25, 2022. See **Exhibit 5**
 6 annexed hereto.

7 50. The First Cole Kepro UCC, the Second Cole Kepro UCC, and the Third Cole Kepro
 8 UCC are collectively referred to herein as the "Cole Kepro UCCs."

9 51. Pursuant to the Cole Kepro UCCs, Cole Kepro asserts a security interest in the
 10 property that is the subject of the April 30 2021 Purchase Order and the Eleven Purchase Orders.

11 **State Court Lawsuit After Defendant Improperly Moved For Arbitration**

12 52. On May 27, 2022, Defendant unilaterally attempted to initiate arbitration with AAA
 13 regarding the sale of the defective Kiosks to Cash Cloud.

14 53. On June 17, 2022, the Debtor filed a Complaint in the Eighth Judicial District Court,
 15 Clark County, Nevada (the "State Court") against Defendant titled *Cash Cloud Inc. v. Cole Kepro*
 16 *Int'l, LLC*, Case No. A-22-854226-C ("State Court Complaint"), seeking damages for among other
 17 things, breach of contract, breach of the implied covenant of good faith and fair dealing, breach of
 18 implied warranties, and Violation of Nevada's Deceptive Trade Practices Act.

19 54. The State Court Complaint also included a request for declaratory relief, seeking a
 20 judgment that there was no agreement between the parties to arbitrate disputes concerning the
 21 purchase of the Kiosks.

22 55. On June 24, 2022, Cash Cloud filed *Plaintiff's Motion For Declaratory Judgment*
 23 *And For Stay Of Arbitration Proceedings* ("Motion For Declaratory Judgment").

24 56. As set forth in the Motion For Declaratory Judgment, Cash Cloud asserted that
 25 because terms and conditions were not provided to Cash Cloud in connection with the purchase of
 26 the Kiosks (evidenced by the April 30 2021 Purchase Order), Cash Cloud was entitled to a
 27 declaration that it had not agreed to arbitrate disputes.

28 57. Defendant asserted that Defendant's standard terms and conditions ("Terms and

1 Conditions") were applicable to the purchase of the Kiosks even though they were not attached to
2 the April 30 2021 Purchase Order.

3 58. The Terms and Conditions include terms that provide, among other things, for
4 arbitration and for the grant of a security interest to Defendant in the products sold by it.

5 59. The State Court granted the Motion For Declaratory Judgment in its *Order Granting*
6 *Motion For Declaratory Judgment And For Stay Of Arbitration Proceedings And Denying*
7 *Defendant's Countermotion To Dismiss Action Pursuant To EDCR 2.20(f)* entered on October 10,
8 2022 (“State Court Order”).

9 60. As set forth in the State Court Order, the State Court found that there was no
10 agreement to arbitrate disputes with Defendant relating to the purchase of the Kiosks. See **Exhibit**
11 **6.**

Cole Kepro Does Not Hold A Security Interest In The Kiosks

13 61. In light of the State Court's ruling that there was no agreement to arbitrate with respect
14 to the purchase of the Kiosks, i.e., that the Terms and Conditions (that were not included with the
15 April 30 2021 Purchase Order) do not apply, it follows that there was no agreement to grant the
16 Defendant a security interest in the Kiosks either.

17 62. The Cole Kepro UCCs cannot perfect a security interest in the Kiosks which
18 Defendant does not have.

FIRST CLAIM FOR RELIEF
(Declaratory Relief)

21 63. The Plaintiff repeats and realleges each and every allegation contained in the preceding
22 paragraphs herein and incorporates the same as if fully set forth herein.

23 64. A genuine dispute exists whether Cash Cloud granted Defendant a security interest
24 in the Kiosks given that the Terms and Conditions was not provided to Cash Cloud in connection
25 with the April 30 2021 Purchase Order.

26 65. Based upon the foregoing dispute and controversy, Cash Cloud respectfully requests
27 a declaration from this Court that Cash Cloud did not grant Defendant a security interest in the
28 Kiosks and April 30 2021 Purchase Order, and accordingly, the Cole Kepro UCCs are void and of

1 no effect with respect to the Kiosks and April 30 2021 Purchase Order.

2 WHEREFORE, Cash Cloud prays for judgment against Defendant as follows:

- 3 1. For declaratory relief as requested;
4 2. For reasonable attorney's fees and costs; and
5 3. For any other relief this Court finds just and proper.

6 Dated this 7th day of February, 2023.

7 **FOX ROTHSCHILD LLP**

8 /s/ Jeanette E. McPherson

9 By: JEANETTE E. MCPHERSON, ESQ.
10 Nevada Bar No. 5423
11 BRETT A. AXELROD, ESQ.
12 Nevada Bar No. 5859
13 NICHOLAS A. KOFFROTH, ESQ.
14 Nevada Bar No. 16264
15 ZACHARY T. WILLIAMS, ESQ.
16 Nevada Bar No. 16023
17 1980 Festival Plaza Drive, Suite 700
18 Las Vegas, Nevada 89135
19 [Proposed] Counsel for Debtor

EXHIBIT 1



P.O. NUMBER: 04302021 - 2

Vendor

Cole Kepro
4170 Distribution Circle
North Las Vegas, NV 89030
702-633-4270

Customer

Coin Cloud, LLC
9580 W. Sahara Blvd
Las Vegas, NV 89117
855-264-2046

P.O. DATE	REQUISITIONER	SHIPPED VIA	Notes
04/30/2021	Jim Bauer	N/A	

QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
4080	Domestic	BNR Version of Blue Box Kiosk / including updated NUC PC and \$200 discount on BNR from CPI	\$8,464.00	\$34,533,120.00
				SUBTOTAL
				Total

DocuSigned by:

James M Bauer

4/30/2021

AA5BDAAB051D45D...

James M Bauer, VP of Operations

Date

DocuSigned by:

Jeffrey L. Garon

4/30/2021

9B0E2D23986C422...

Jeffrey L. Garon
DocuSigned by:

CFO/COO

Date

[Signature]
D8CB448ED76C498...

4/30/2021

Chris McAlary President/CEO

Date

EXHIBIT 2



P.O. NUMBER: 04302021

Vendor

Cole Kepro
4170 Distribution Circle
North Las Vegas, NV 89030
702-633-4270

Customer

Coin Cloud, LLC
9580 W. Sahara Blvd
Las Vegas, NV 89117
855-264-2046

P.O. DATE	REQUISITIONER	SHIPPED VIA	Notes
04/30/2021	Jim Bauer	N/A	

QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
4080	Domestic	Adjustment price for replacement NUC/PC	\$89.00	\$363,120.00
				SUBTOTAL \$363,120.00
				Total \$363,120.00

DocuSigned by:

James M Bauer

4/30/2021

AA5BDAAB051D45D...
James Bauer VP of Operations
DocuSigned by:

Date

Jeffrey L. Garon

4/30/2021

9B0E2D23986C422...

Jeffrey L. Garon CFO/COO

Date

DocuSigned by:

4/30/2021

D8CB448ED76C498...

Chris McAlary President/CEO

Date

EXHIBIT 3

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

SUSAN R. MCMASTER 8727-1485

B. E-MAIL CONTACT AT FILER (optional)

SMCMMASTER@JAFFELAW.COM

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

JAFFE RAITT**27777 FRANKLIN ROAD, SUITE 2500****SOUTHFIELD, MI 48150, USA**

Filed in the Office of

*Bethany K. Cigarske*Secretary of State
State Of NevadaInitial Filing Number
2022243917-2Filed On
May 25, 2022 12:46 PMNumber of Pages
1

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor information in Item 10 of the Financing Statement Addendum (Form UCC1Ad)

—
OR
1a. ORGANIZATION'S NAME
CASH CLOUD INC

1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
1c. MAILING ADDRESS 10190 COVINGTON CROSS DRIVE	CITY LAS VEGAS	STATE NV	POSTAL CODE 89144	COUNTRY USA

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here and provide the Individual Debtor information in Item 10 of the Financing Statement Addendum (Form UCC1Ad)

—
OR
2a. ORGANIZATION'S NAME

2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
2c. MAILING ADDRESS 4170-103 DISTRIBUTION CIRCLE	CITY NORTH LAS VEGAS	STATE NV	POSTAL CODE 89030	COUNTRY USA

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

—
OR
3a. ORGANIZATION'S NAME
COLE KEPRO INTERNATIONAL, LLC

3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
3c. MAILING ADDRESS 4170-103 DISTRIBUTION CIRCLE	CITY NORTH LAS VEGAS	STATE NV	POSTAL CODE 89030	COUNTRY USA

4. COLLATERAL: This financing statement covers the following collateral:

ANY AND ALL 1095-C-2960-01-000-FEN04 COIN CLOUD BITCOIN DOMESTIC KIOSKS WITH BNR AND ASSOCIATED SPARE PARTS SOLD BY SECURED PARTY TO DEBTOR, INCLUDING THOSE SOLD PURSUANT TO PURCHASE ORDER NUMBERS:

#04302021-2, #1102022-1, #152022-1, #1132021-1, #11220221, #12152021-2, #1312022-2, #212022-1, #2142022-1, #1152022-1, #1252022-1 AND #1272022-1.

5. Check only if applicable and check only one box: Collateral is held in a Trust (see UCC1Ad, item 17 and Instructions) being administered by a Decedent's Personal Representative

- 6a. Check only if applicable and check only one box:

Public-Finance Transaction Manufactured-Home Transaction A Debtor is a Transmitting Utility

- 6b. Check only if applicable and check only one box:

Agricultural Lien Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignor Seller/Buyer Bailee/Bailor Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

EXHIBIT 4

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)
SUSAN R. MCMASTER 8727-1485

B. E-MAIL CONTACT AT FILER (optional)
SMCMMASTER@JAFFELAW.COM

C. SEND ACKNOWLEDGMENT TO: (Name and Address)
**JAFFE RAITT
27777 FRANKLIN ROAD, SUITE 2500
SOUTHFIELD, MI 48150, USA**

Filed in the Office of

*Barbara K. Gerske*Secretary of State
State Of NevadaFiling Number
2022245297-6Initial Filing Number
2022243917-2Filed On
June 3, 2022 09:06 AMNumber of Pages
1

1a. INITIAL FINANCING STATEMENT FILE NUMBER

2022243917-21b. This FINANCING STATEMENT AMENDMENT is to be filed [for record]

(or recorded) in the REAL ESTATE RECORDS

Filer: attach Amendment Addendum(Form UCC3Ad) and provide Debtor's name in item 13

— 2. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement3. ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9
For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 84. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law5. PARTY INFORMATION CHANGE:Check one of these two boxes:AND Check one of these three boxes to:This Change affects Debtor or Secured Party of record CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c ADD name: Complete item 7a or 7b, and item 7c DELETE name: Give record name to be deleted in item 6a or 6b6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME

CASH CLOUD INC.

OR

6b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S)/INITIAL(S) SUFFIX7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (USE exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME

COIN CLOUD LLC

OR

7b. INDIVIDUAL'S SURNAME INDIVIDUAL'S FIRST PERSONAL NAME INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

7c. MAILING ADDRESS

10190 COVINGTON CROSS DRIVE

CITY

LAS VEGAS

STATE

NV

POSTAL CODE

89144

COUNTRY

USA8. COLLATERAL CHANGE: Also check one of these four boxes: ADD collateral DELETE collateral RESTATE covered collateral ASSIGN collateral

Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)If this is an Amendment authorized by a DEBTOR, check here and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME

COLE KEPRO INTERNATIONAL, LLC

OR

9b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

10. OPTIONAL FILER REFERENCE DATA:

EXHIBIT 5

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

SUSAN R. MCMASTER 8727-1485

B. E-MAIL CONTACT AT FILER (optional)

SMCMMASTER@JAFFELAW.COM

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

JAFFE RAITT**27777 FRANKLIN ROAD, SUITE 2500****SOUTHFIELD, MI 48150, USA**

Filed in the Office of

Barbara K. Cugarske

Initial Filing Number

2022245388-7

Filed On

June 3, 2022 12:48 PM

Number of Pages

1

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor information in Item 10 of the Financing Statement Addendum (Form UCC1Ad)

—
OR
1a. ORGANIZATION'S NAME
CASH CLOUD INC.

1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
1c. MAILING ADDRESS 10190 COVINGTON CROSS DRIVE	CITY LAS VEGAS	STATE NV	POSTAL CODE 89144	COUNTRY USA

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here and provide the Individual Debtor information in Item 10 of the Financing Statement Addendum (Form UCC1Ad)

—
OR
2a. ORGANIZATION'S NAME
COIN CLOUD

2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
2c. MAILING ADDRESS 10190 COVINGTON CROSS DRIVE	CITY LAS VEGAS	STATE NV	POSTAL CODE 89144	COUNTRY USA

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

—
OR
3a. ORGANIZATION'S NAME
COLE KEPRO INTERNATIONAL, LLC

3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
3c. MAILING ADDRESS 4170-103 DISTRIBUTION CIRCLE	CITY NORTH LAS VEGAS	STATE NV	POSTAL CODE 89030	COUNTRY USA

4. COLLATERAL: This financing statement covers the following collateral:

ANY AND ALL 1095-C-2960-01-000-FEN04 COIN CLOUD BITCOIN DOMESTIC KIOSKS WITH BNR AND ASSOCIATED SPARE PARTS SOLD BY SECURED PARTY TO DEBTOR, INCLUDING THOSE SOLD PURSUANT TO PURCHASE ORDER NUMBERS:

#04302021-2, #1102022-1, #152022-1 , #1132021-1 , #11220221, #12152021-2, #1312022-2, #212022-1, #2142022-1, #1152022-1, #1252022-1 AND #1272022-1.
5.

5. Check only if applicable and check only one box: Collateral is held in a Trust (see UCC1Ad, item 17 and Instructions) being administered by a Decedent's Personal Representative

- 6a. Check only if applicable and check only one box:

Public-Finance Transaction Manufactured-Home Transaction A Debtor is a Transmitting Utility

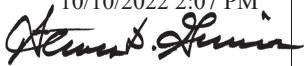
6b. Check only if applicable and check only one box:

Agricultural Lien Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignor Seller/Buyer Bailee/Bailor Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

EXHIBIT 6



CLERK OF THE COURT
1 **ORDR**

2 JAMES J. JIMMERTON, ESQ.
 3 Nevada State Bar No. 00264
 4 jimmerson@jimmersonlawfirm.com
 5 JAMES M. JIMMERTON, ESQ.
 6 Nevada State Bar No. 12599
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 9 415 South Sixth Street, Suite 100
 10 Las Vegas, Nevada 89135
 11 Telephone: (702) 388-7171
 12 Facsimile: (702) 367-1167
 13 *Attorneys for Plaintiff*
 14 *Cash Cloud Inc.*

10 **EIGHTH JUDICIAL DISTRICT COURT**
 11 **CLARK COUNTY, NEVADA**

12 CASH CLOUD INC., a Nevada corporation,
 13 Plaintiff,
 14 vs.
 15 COLE KEPRO INTERNATIONAL, LLC, a
 16 Delaware limited liability company,
 17 Defendant.

18 Case No.: A-22-854226-B

19 Dept. No.: XXII

20 Hearing Date: September 13, 2022
 21 Hearing Time: 8:30 a.m.22 **ORDER GRANTING MOTION FOR DECLARATORY JUDGMENT AND FOR**
STAY OF ARBITRATION PROCEEDINGS AND DENYING DEFENDANT'S
COUNTERMOTION TO DISMISS ACTION PURSUANT TO EDCR 2.20(f)

23 This matter came before the Court on Plaintiff Cash Cloud Inc.'s ("Plaintiff" or
 24 "Cash Cloud") Motion for Declaratory Judgment and for Stay of Arbitration Proceedings
 25 (the "Motion") and Defendant Cole Kepro International, LLC's ("Defendant" or "Cole
 26 Kepro") Countermotion to Dismiss Action Pursuant to EDCR 2.20(f) (the
 27 "Countermotion"). James M. Jimmerson, Esq. of The Jimmerson Law Firm, P.C. and
 28 John Naylor, Esq. of Naylor & Braster appeared on behalf of Cash Cloud, with
 Christopher McAlary in attendance, and David Adler, Esq. of Jaffe Raitt Heuer & Weiss,
 P.C. and Dan Waite, Esq. of Lewis Roca Rothgerber Christie LLP appeared on behalf of

1 Cole Kepro. The Court reviewed the papers and pleadings on file herein, and good cause
 2 appearing, the Court finds and orders as follows:

3 THE COURT HEREBY FINDS that NRCP 57 states in pertinent part:

4 The procedure for obtaining a declaratory judgment pursuant
 5 to statute, shall be in accordance with these rules, ... The
 6 existence of another adequate remedy does not preclude a
 7 judgment for declaratory relief in cases where it is
 8 appropriate. The court may order a speedy hearing of an
action for a declaratory judgment and may advance it
on the calendar.

9 *Id.* (emphasis supplied).

10 THE COURT FURTHER FINDS that NRS 38.221 states in relevant part:

11 2. On motion of a person alleging that an arbitral proceeding
 12 has been initiated or threatened but that there is no
 13 agreement to arbitrate, the court shall proceed summarily to
 14 decide the issue.

15 ***

16 4. If the court finds that there is no enforceable
agreement, it may not, pursuant to subsection 1 or 2,
order the parties to arbitrate.

17 *Id.* (emphasis supplied).

18 THE COURT FURTHER FINDS that in 2021 Cash Cloud had purchased 4,080
 19 4th Generation kiosks from Cole Kepro.

20 THE COURT FURTHER FINDS that disputes have arisen between Cash Cloud
 21 and Cole Kepro over the purchase of the 4th Generation kiosks.

22 THE COURT FURTHER FINDS that on or about May 27, 2022, Cole Kepro
 23 initiated an arbitration proceeding with the American Arbitration Association in Texas
 24 concerning, *inter alia*, the purchase of 4,080 4th Generation Kiosks by Cash Cloud from
 25 Cole Kepro.

26 THE COURT FURTHER FINDS that Cole Kepro maintained that the arbitration
 27 of the dispute over the purchase of 4,080 4th Generation Kiosks by Cash Cloud from Cole
 28 Kepro was mandated by the provisions of the two-page terms and conditions document,
 a copy of which was attached to the Motion as Exhibit 20.

1 THE COURT FURTHER FINDS that there was no agreement to arbitrate the
2 disputes over Cash Cloud's purchase of the 4,080 4th Generation kiosks from Cole Kepro.

3 THEREFORE, THE COURT ORDERS, ADJUDGES, DECREES, AND
4 DECLARES that Cash Cloud did not agree to arbitrate disputes over the purchase of the
5 4,080 4th Generation kiosks.

6 THE COURT FURTHER ORDERS, ADJUDGES, AND DECREES that the
7 arbitration of the disputes over Cash Cloud's purchase of the 4th Generation kiosks from
8 Cole Kepro shall be stayed immediately.

9 THE COURT FURTHER ORDERS, ADJUDGES, AND DECREES that Cash
10 Cloud's Motion for Declaratory Judgment and for Stay of Arbitration Proceedings is
11 granted and Cole Kepro's Countermotion to Dismiss Action Pursuant to EDCR 2.20(f) is
12 denied.

Dated this 10th day of October, 2022



B89 0D4 61ED 303A
Susan Johnson
District Court Judge

14 Respectfully Submitted By:

15 THE JIMMERSON LAW FIRM, P.C.

18 By: /s/ James M. Jimmerson, Esq.

19 James J. Jimmerson, Esq. (SBN 064)
jimmerson@jimmersonlawfirm.com
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12599)
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22 415 South Sixth Street, Suite 100
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23 Tel: 702.388.7171

24 Attorneys for Plaintiff Cash Cloud Inc.

25 ///
26 ///
27 ///

1 Not approved as to form and content by:

2 LEWIS ROCA ROTHGERBER CHRISTIE LLP

4 By: /s/

5 Dan R. Waite (SBN. 4078)
6 DWaite@lewisroca.com
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10 JAFFE RAITT HEUER & WIESS, P.C.

11 David Z. Adler (Michigan SBN: P71227)

12 *Pro Hac Vice*
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14 27777 Franklin Road Suite 2500
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16 Tel: 248.727.1563

17 *Attorneys for Defendant Cole Kepro International, LLC*

James M. Jimmerson, Esq.

From: James M. Jimmerson, Esq.
Sent: Friday, October 7, 2022 2:03 PM
To: 'David Adler'; Waite, Dan R.
Cc: Andrew Pastor; Deborah Gutierrez
Subject: RE: Cash Cloud Inc. v. Cole Kepro International, LLC

Respectfully, I believe that an order on declaratory judgment needs more and there was no restriction on the Court's denial of the countermotion. We will submit competing orders.

Sincerely,

James M. Jimmerson, Esq.
Senior Associate
The Jimmerson Law Firm, P.C.
415 South 6th Street, Suite 100
Las Vegas, Nevada 89101
(702) 388-7171 (Office)
(702) 380-6413 (Facsimile)
jmj@jimmersonlawfirm.com



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From: David Adler <dadler@jaffelaw.com>
Sent: Friday, September 30, 2022 6:41 AM
To: James M. Jimmerson, Esq. <jmj@jimmersonlawfirm.com>; Waite, Dan R. <DWaite@lewisroca.com>
Cc: Andrew Pastor <aap@jimmersonlawfirm.com>; Deborah Gutierrez <dgutierrez@jaffelaw.com>
Subject: RE: Cash Cloud Inc. v. Cole Kepro International, LLC

Thanks, but the judge did not make any ruling other than that there was no agreement to arbitrate the 4th Generation Kiosk dispute. Here's the version of the order we propose.

David Adler
dadler@jaffelaw.com
248.727.1563
he/him/his

JAFFE RAITT HEUER & WEISS, P.C.
27777 Franklin Rd., Suite 2500
Southfield, MI 48034
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Jaffe is joining Taft

The next chapter starts December 31, 2022.

Signature: Nothing in this communication is intended to constitute an electronic signature. This email does not establish a contract or engagement.
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If you received this by mistake, please destroy it and notify us of the error.



From: James M. Jimmerson, Esq. <jmj@jimmersonlawfirm.com>
Sent: Thursday, September 29, 2022 5:58 PM
To: David Adler <dadler@jaffelaw.com>; Waite, Dan R. <DWaite@lewisroca.com>
Cc: Andrew Pastor <aap@jimmersonlawfirm.com>
Subject: Cash Cloud Inc. v. Cole Kepro International, LLC

****EXTERNAL EMAIL - Be Cautious with Links and Attachments****

David and Dan,

Attached is a proposed order on the motion and counter-motion decided by Judge Johnson. Please let me know if you have any requested changes to the same or if I may submit with your electronic signature. Thank you.

Sincerely,

James M. Jimmerson, Esq.
Senior Associate
The Jimmerson Law Firm, P.C.
415 South 6th Street, Suite 100
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1 CSERV
2

3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Cash Cloud Inc, Plaintiff(s) CASE NO: A-22-854226-B
7 vs. DEPT. NO. Department 22
8 Cole Kepro International LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 10/10/2022

15 James M Jimmerson jmj@jimmersonlawfirm.com
16 Andrew Pastor aap@jimmersonlawfirm.com
17 Jimmerson Law Firm Efilng efiling@jimmersonlawfirm.com
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19 Dan Waite DWaite@lewisroca.com
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